

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

UCB, INC., UCB PHARMA GMBH, and)
LTS LOHMANN THERAPIE-SYSTEME)
AG,)
)
Plaintiffs,)
) C.A. No. 19-cv-128-CR
v.)
)
MYLAN TECHNOLOGIES, INC.,)
)
Defendant.)

DECLARATION OF MATTHEW CAMPION

I, Matthew Campion, declare as follows pursuant to 28 U.S.C. § 1746:

1. I am a senior paralegal in the law firm of Fenwick & West LLP (“Fenwick”), which represents Plaintiffs UCB, Inc., UCB Pharma GMBH, and LTS Lohmann Therapie-Systeme AG (“Plaintiffs”), in this action. I submit this declaration in support of Plaintiffs’ Motion for Extension of Time Pursuant to FRAP 4(a)(5), or in the Alternative to Recognize Prior Filing as Notice of Appeal. I have personal knowledge of the matters set forth in this declaration and, if called upon to do so, could and would testify competently as to the matters set forth herein.

2. I have worked as a senior paralegal at Fenwick for three years with James Trainor, lead counsel for Plaintiffs in this action, as well all other counsel of record in this case from the New York office of the Fenwick firm (the “New York Litigation Team”). Before that, I was a paralegal at a large New York law firm for about twelve years, where I worked with the same New York Litigation Team.

3. As the senior paralegal on any given litigation case, I am responsible for making sure our docketing team is alerted to any court-related deadlines. Those deadlines are either explicitly identified in Court Orders, e.g., Scheduling Orders, or must be calculated based on operation of the relevant Federal Rule(s), e.g., the last day to Answer a Complaint. Once I, or another paralegal under my supervision, notify our firm-internal docketing team of an Order, pleading, etc., having the import of prompting some corresponding, subsequent deadline(s), the docketing team will calculate and enter any such deadline(s) into the Outlook calendar of each attorney, paralegal, and administrative assistant who is associated with the specific matter. Once those deadlines are entered, each attorney, paralegal, and assistant will receive a calendar notification one week before the deadline occurs, as well as on the day that the deadline occurs.

4. By way of example, Plaintiffs are engaged in a litigation against a different defendant in the District Court of Delaware concerning U.S. Patent No. 10,130,589, one of the patents at-issue in this action. *See UCB, Inc. et. al. v. Actavis Laboratories UT, Inc.*, Civ. No. 1-19-cv-00474 (District of Delaware) (the “Delaware Action”). Following the entry of final judgment in that matter, the aforementioned docketing alert procedure was followed, and all attorneys, paralegals and assistants assigned to the case received calendar alerts regarding the deadline for filing a Notice of Appeal, and the Notice of Appeal was timely filed. *See Ex. A* hereto, which is a true and correct excerpt from the Delaware Action showing docket entry 200 (Notice of Appeal).

5. At my prior firm, I followed the same docketing alert procedure as is used at Fenwick. In my fifteen years of working as a paralegal with the New York Litigation Team, I am not aware of our having ever missed any court-related deadline.

6. Following this Court’s June 8, 2021 entry of Judgment and Stipulated Dismissal (Doc. 138), neither I nor any paralegal under my supervision alerted the docketing team to the deadline to file a Notice of Appeal. My understanding, in my capacity working as senior paralegal for the New York Litigation Team on behalf of Plaintiffs in this action, was that my colleagues, counsel for Plaintiffs, and counsel for Defendant Mylan Technologies, Inc., had been discussing how to proceed with this matter given the entry of judgment in the Delaware Action. *See, e.g.*, Doc. 124 (requesting time to meet and confer regarding an appropriate judgment or other submission to the Court); Doc. 125 (same), Doc. 126 (same); Doc. 140 (Transcript of Statute Conference from June 2, 2021 concerning parties’ proposed stay and previous discussions); Doc. 141 at 4-8 (Transcript of Status Conference from June 7, 2021 concerning Proposed Judgment and Stipulated Order of Dismissal). On May 14, 2021, the parties filed a Joint Stipulation and Proposed Order to stay this case pending resolution of the appeal of the

Delaware Action. Doc. 128. It is presently my understanding that this joint stipulation was not accepted by the Court, and that, consequently, the parties made a new joint submission styled as a Proposed Judgment and Stipulated Order of Dismissal (Doc. 137) that the Court then adopted and entered (Doc. 138).

7. Based on this history and the wording of the proposed order to the Court, I mistakenly believed this second joint submission (Doc. 137) to be a stipulation, similar to the prior joint submission (Doc. 128), that would not be subject to appeal independently and thus, for which no further docketing alerts needed to be entered in the Fenwick & West internal docketing system. That is, I did not request that our docketing team enter a deadline for a notice of appeal, nor did I direct another paralegal to do so.

8. I did not know about this deadline until this morning, July 9, 2021, when I received an email from my colleague, Silvia Medina, an associate at Fenwick & West, asking about the Notice of Appeal deadline. She asked me if this Court's Judgment and Stipulated Order (Doc. 138) had been sent to the docketing team because she did not receive any associated docketing alerts. I told her of my mistaken understanding that, because this case was dismissed by stipulation, there was no appealable judgment.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed on July 9, 2021, in Brooklyn, New York.

/s/*Matthew Campion*
Matthew Campion

Exhibit A

**U.S. District Court
District of Delaware (Wilmington)
CIVIL DOCKET FOR CASE #: 1:19-cv-00474-KAJ**

UCB, Inc. et al v. Actavis Laboratories UT, Inc.

Assigned to: Judge Kent A. Jordan

Related Cases: [1:14-cv-01083-LPS-SRF](#)

[1:16-cv-01023-LPS](#)

[1:17-cv-00322-LPS](#)

Case in other court: Federal Circuit, 21-01924

Cause: 35:271 Patent Infringement

Date Filed: 03/06/2019

Jury Demand: None

Nature of Suit: 835 Patent - Abbreviated

New Drug Application(ANDA)

Jurisdiction: Federal Question

Plaintiff

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		Therapie-Systeme AG, UCB, Inc., UCB Pharma GmbH. Signed by Judge Kent A. Jordan on 4/16/2021. (cna,) (Entered: 04/16/2021)
04/20/2021		Pro Hac Vice Attorneys George F. Pappas, Richard L. Rainey, Alaina Whitt, Alexa R. Hansen for LTS Lohmann Therapie-Systeme AG, UCB Pharma GmbH, UCB, Inc. added for electronic noticing. Pursuant to Local Rule 83.5 (d),, Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (kmd) (Entered: 04/20/2021)
05/03/2021	200	NOTICE OF APPEAL to the Federal Circuit of 196 Judgment, . Appeal filed by LTS Lohmann Therapie-Systeme AG, UCB Pharma GmbH, UCB, Inc.. (Raucci, Anthony) (Entered: 05/03/2021)
05/03/2021		APPEAL - Credit Card Payment of \$505.00 received re 200 Notice of Appeal (Federal Circuit) filed by LTS Lohmann Therapie-Systeme AG, UCB, Inc., UCB Pharma GmbH. (Filing fee \$505, receipt number ADEDC-3606520.) (Raucci, Anthony) (Entered: 05/03/2021)
05/03/2021		Notification regarding 200 Notice of Appeal (Federal Circuit) sent to Reporter Gaffigan. (nmg) (Entered: 05/03/2021)
05/03/2021		Notification regarding 200 Notice of Appeal (Federal Circuit) sent to Reporter Gunning. (nmg) (Entered: 05/03/2021)
05/03/2021		Notice of Appeal and Docket Sheet to US Court of Appeals for the Federal Circuit re 200 Notice of Appeal (Federal Circuit). (nmg) (Entered: 05/03/2021)
05/06/2021	201	NOTICE of Docketing Record on Appeal from USCA for the Federal Circuit re 200 Notice of Appeal (Federal Circuit) filed by LTS Lohmann Therapie-Systeme AG, UCB, Inc., and UCB Pharma GmbH. USCA Case Number 21-1924. (nmg) (Entered: 05/06/2021)
05/06/2021	202	TRANSCRIPT REQUEST by LTS Lohmann Therapie-Systeme AG, UCB Pharma GmbH, UCB, Inc. TRANSCRIPT NOT NEEDED (Raucci, Anthony) (Entered: 05/06/2021)
05/07/2021	203	NOTICE of Withdrawal of Counsel by LTS Lohmann Therapie-Systeme AG, UCB Pharma GmbH, UCB, Inc. (Blumenfeld, Jack) (Entered: 05/07/2021)

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